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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,996	12/31/2003	Antoni Kozlowski	SHE0065.00	5501
21968	7590	12/01/2006		
NEKTAR THERAPEUTICS 150 INDUSTRIAL ROAD SAN CARLOS, CA 94070			EXAMINER TRUONG, DUC	
			ART UNIT	PAPER NUMBER

1711

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,996

Applicant(s)

KOZLOWSKI ET AL.

Examiner

Duc Truong

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) 38-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 101304, 112505 and 102306.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Applicant's election with traverse of Group I, claims 1-37 in the reply filed on 10/20/06 is acknowledged. The traversal is on the ground(s) that the claims in groups I-IV require common elements and do not require an additional search. This is not found persuasive because the search is based on different chemical features in that the search for the method of group I does not require any chemical structures and the claimed composition in groups II-IV do not require any steps of the process, as required in group I.

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/62827 of record on 1449.

The reference discloses multi-functional N-maleimidyl polymer derivatives comprising a water soluble and non-peptidic polymer backbone having a terminal carbon, such as a poly(alkylene glycol), the terminal carbon of the polymer backbone being directed bonded to the nitrogen atom of a N-maleimidyl moiety. (see Abstract).

Note that the claimed water soluble polymer comprising a maleimide group are disclosed at page 13, steps 1 and 2 (two steps process) or a single step (page 13, line 20 onto page 14, , line 8)

Art Unit: 1711

The N-maleimidyl polymer derivatives can be used to react with a biologically active agent, such as protein or peptide, to form a biologically active polymer conjugate (see page 15, lines 3-5), corresponding to the claimed step (b).

Further, a N-maleimidyl, carboxylic acid PEG can be converted to the N-succinimidyl ester in that the succinimide ring is open), corresponding to the claimed step ©.

It is further noted that the reactants and the steps of the process are disclosed in the Examples of the reference.

The disclosure of the reference differs from the instant claims in that it does not disclose the use of a base, which is alkaline condition.

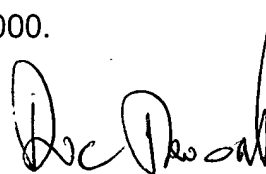
However, the reference does disclose the claimed step (b) and the claimed step (c) in that said condition is included. Therefore, it would have been obvious to one of ordinary skill in the art to include the use of the claimed base in the method for preparing said polymer conjugate, since they have been shown to be effective in a similar system and thus would have been expected to provide adequate results. There is no showing of unexpected results derived from said use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Truong whose telephone number is 571-272-1081. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DUCTRUONG
PRIMARY EXAMINER
